IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. No.2 of 1990
Date of Decision:28.02.2007

The Commissioner of Income-tax, Patiala .....Petitioner
Vs.
M/s Metalways (P) Ltd., Chandigarh .....Respondent

CORAM:- HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. Sanjiv Bansal, Advocate for the revenue.

Mr. S.K.Mukhi, Advocate for the assessee.

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RAJESH BINDAL, J.

Following question of law arising out of order passed by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short, `the Tribunal') in I.T.A. No.87 of 1983 dated 31.8.1984, in respect of assessment year 1979-80 has been referred for opinion of this Court:-

> "Whether, on the facts and in the circumstances of the case, the Appellate Tribunal erred in setting aside assessment order to the file of the Commissioner of Income tax (Appeals) for adjudicating on the applicability of Explanation 2 of sub-section (4) of section 80J,when the assessee was in the first place not entitled to deduction under section 80J for assessment year 1979-80, view of the fact that the period of admissibility laid down by sub-section (2) of section 80J had expired?"

In view of separate order passed today in I.T.R. Nos.336 & 337 of 1996 **(The Commissioner of Income-tax, Patiala v. M/s Metalways (P) Ltd., Chandigarh)**, the question referred is answered against the revenue and in favour of the assessee.

The reference is disposed of accordingly.

(RAJESH BINDAL)
JUDGE

February 28, 2007 **(M.M.KUMAR)**
renu **JUDGE**